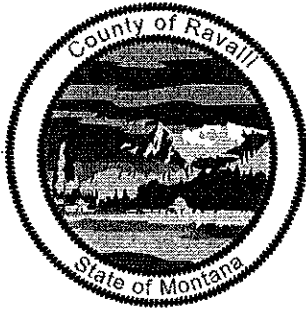


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MAY 19 2009

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Ravalli County Planning Dept.



To: Ravalli County Planning Department

From: Ravalli County Planning Board

Date: May 19, 2009

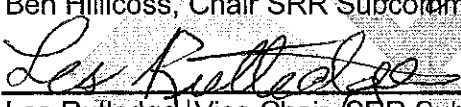
Date of Board decision to forward to Department: May 20, 2009

Subject: Assessment of Ravalli County Subdivision Regulations

The attached report is being forwarded to the full Ravalli County Planning Board for their consideration. This document is the proposed Planning Board's response to the "Task 1" document from the Planning Department requesting that the Ravalli County Planning Board and/or subcommittees provide an "assessment of the regulations" as they currently exist and provide high-level recommendation on how they can be improved.

Respectfully submitted by:

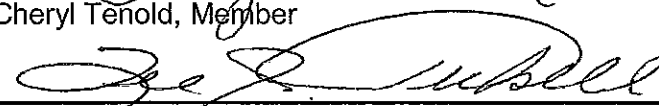

Ben Hillicoss, Chair SRR Subcommittee


Les Rutledge, Vice Chair, SRR Subcommittee

absent-excused
Mary Lee Bailey, Member

absent-excused
Chip Pigman, Member


Cheryl Tenold, Member


Lee Tickell, Member

Attachment: Memo from Ben Hillicoss dated February 19, 2008, titled: Master List of Subdivision Review Questions

Assessment of Ravalli County Subdivision Regulations

This document is the Subcommittee proposed response to the questions in Section 1 through 5 of the document titled Subdivision Regulation Diagnosis, dated –March 16, 2009. For Clarity, we have repeated the questions found in the original document and then inserted our responses in italics following each question.

1. Organization, User-Friendliness, Clarity

- a. Are the regulations organized well, logically presented, and navigable?

Comment: *The answer to this question depends on the audience. For some audiences it is reasonably well organized, for others not. Some detail and related comments will be provided below. See our general comments section at the end of question 1.*

- i. What is well organized, and what can use improvement?

Comment: *The answer to this question again depends on the audience and how they will use the document. In general font size and structure needs to be improved. Also the table of contents and lack of an index is a general problem. Most definitions are good. Detailed suggestions for improvements to some definitions can be provided in a later phase of this project. There is generally poor sentence structure and many sentences that are overlong in parts of the regulations. An introductory paragraph at the beginning of each section to explain what the section covers would be helpful to the inexperienced user.*

- ii. Should the current organizational structure be retained?

Comment: *Yes to some parts, no to others. Specific detailed recommendations can be made in a later phase with specific suggestions for changes.*

- iii. What are other, potentially better, alternatives for organizing the material?

Comment: *Some of the Regulation from other counties contains some useful examples. More detail will be provided below and in latter phases of this project. Also Gallatin County has sequential numbering which makes it much easier to find things quickly. The pages are sequentially numbered like a book and correspond to the table of contents*

- b. What in the current regulations increase user-friendliness?

Comment: *See the answer to 1.a above.*

- i. Which items decrease it?

Comment: *See the answer to 2.c.i below for some examples.*

- ii. How would you recommend we increase the overall level of user-friendliness?

Comment: *Restructure the document to meet the different needs of different audiences. Also, article and major topics on one of the other regulations we looked at were centered on the page, and in bold, making it easier to spot topics. All caps or different or larger fonts for topic headings would also be helpful.*

- c. Would you encourage more or fewer pictorial illustrations in the regulations?

Comment: *A few more might help, depending on what other changes are made.*

- i. What provisions could use illustrations?

Comment: We did not debate the detail pros and cons of this subject. This would be more productive to do when recommending specific changes to the document.

- d. Is the language used to describe provisions clear and concise?

Comment: Lewis and Clark County is easier to read because the font is larger, there are bold headings, and everything is listed in the index. It may make it larger, but it's easier to use. Tahoma, Verdana, and Arial are suggested fonts, over Times New Roman. An index would be very helpful. Electronic search ability would be useful for the public and to create an index in either .doc or PDF. Format.

- i. Which provisions demonstrate clear and concise language?

Comment: Examples of clear & concise language.

- a. 3-3-6 (a).i thru v
- b. 3-3-3 (a) – 3-3-4 (a)
- c. 3.5.1 prelim statement
- d. 5-4-5
- e. Most definitions

- ii. Which provisions do not?

Comment: Many paragraphs: poor sentence structure & sentences too long

- a. 3-1-3, 1st sentence should be two or three
- b. 3-5-5
- c. 3-5-2 a
- d. 3-7-1 a
- e. 4-6-1 f
- f. 3-1-2 (a thru e) – there is no preliminary statement regarding the transfer of title – accurate but could use clarity

- iii. Provide specific examples.

Comment: See examples in the comments to questions 1.d.i and ii above for a few examples.

- e. Are terms adequately defined?

Comment: Most are adequately defined. It would be much easier to suggest revisions to some of the existing definitions.

- i. Are there terms that are currently undefined that should be defined?

Comment: This type of detailed review would be much more productive to do during the detail analysis and rewritings phase. For example: 3-1-3 Needs MCA reference. 3-1-5a The Planning Department is currently acting as the reviewing agent (see statute). It should be stated who the reviewing agent is in the regulations, the Planning Department or the Planning Board.

- ii. What should those definitions be?

Comment: From the definitions in current subdivision regulations under Chapter 2-6 Definitions: (through #75 only)

- #3 Needs to include trails
- #14 Should have MSPA reference
- #17,18 Redundant, see #s 48-54
- #24 There should be 2 parking spaces, like Forest Service

- #33 Add after "property": in a subdivision.
- #37 Wording
- #41 Redundant, see #115
- #46 Working: by whom?
- #63 Major vs. minor ditch?
- #66,67 Delete for redundancy
- #73 Should be MDOT and MDT
- New definitions (examples and there may be other):
 - Environmental degradation
 - Cumulative impacts
 - Sustainable

General comments on the questions under number 1 above:

- a. *We need more detailed definitions of the six criteria.*
- b. *Related to user friendliness and audience, our Regulations document could use some things to make it more easily readable. "How to read or use this document", as a section, may be helpful to different types of people that would be reading this document. A developer that is very familiar with it will have different needs than the person who is doing a small, one-time subdivision, or a first time user.*
- c. *In general, most definitions are good. It is suggested that they go at the end of the regulations, instead of the beginning.*
- d. *Subdivision for Rent or Lease is a section that is not useable for a layperson as it is currently structured and written. There are different interpretations in case law and it's not clear as presented in the current regulations. We will defer specific research on this topic until we can look at examples from other counties.*
- e. *If we could have some examples of how to use different kinds of development, along with their guidelines, it may help people get through what it is they really need. Like a FAQ section or pamphlets for the public. A Supplemental Administrative Material section would allow for handouts that would be more easily modified*
- f. *We do not have an index, so everyone has to use the table of contents. The table of contents should include sequential page numbers, as well. We will include good examples of table of contents. An index would make it easier to find specific things. We will provide two examples: one from Missoula County and the other from Gallatin County as attachments B and C.*
- g. *A consistent submittal format, that addresses the lack of clarity and ambiguity, would make it easier for everyone concerned, and reduce problems for developers. We can use the example of Stevensville in that they have specific requirements for application submittal and format, including the organization of documents within the entire packet.*
- h. *Move all amendments and resolutions to an appendix in the back of the Subdivision Regulations document*

2. Application, Plat, and Process

- a. What are some common issues the Board perceives in the way subdivision applications are processed and reviewed?

Comment: *There are a number of simple changes that could be made to the Planning department report that we think could make it easier to get oriented and save time. Some examples are an overview of the basic characteristics of the subdivision, some brief background on the history of the property etc. Some of this data is presented during the PD briefing, but putting it on the report would help save time in the initial reading and digesting of the report.*

- i. Specifically address review given by the Planning Department, Planning Board, Board of County Commissioners, agencies, and the public.

Comment: *There are physical infrastructure and/or resources problems areas within the county that frequently come out in the Planning Board review where some members of the Planning Board feel strongly that some research is required by the county to establish defensible "Findings of Facts" that can be used as a go/no-go gage against proposed subdivisions in a given area. For example what is the remaining capacity of some of these critical resources and how much of that remaining capacity has already been committed to other already approved subdivision. Another issue is the presentation to the BCC of the PB recommendations both in writing and verbally as it is currently handled.*

- ii. Consider the timelines established by the State legislature that prescribe when certain components of an application must be reviewed, and by whom, when discussing this item.

Comment: *Some examples of problem areas are:*

1) Insufficient mitigation is frequently proposed or mitigation which does not seem to adequately address the impact of the proposed subdivision. For example lack of mitigation for impact on Ag, schools, emergency services etc.

2) Include in the questionnaire, summary of probable impacts and environmental assessment, a series of questions that the subdivider is required to answer related to the six criteria, that are used to produce the Findings of Facts and Conclusions of Law.

3) When and how should we consider the Sherlock (Simmons v. City of Helena) decision on sewer impact on ground water?

4) When is an Environmental Assessment statement required under state law or our regulations?¹. What does the Planning Board do if we feel an Environmental Assessment should have been required yet none has been done or requested by the Planning Department? We should further explore in the next Task the issue of what EA information can be required of minor subdivisions. Need to specify in the SRR what is required to evaluate the environmental impact of the subdivision and cumulative effect. The subcommittee will explore, in the next task, what information can be required of minor subdivisions in regards to an Environmental Assessment and cumulative effect.

5) We recently (in the last year) had problems with evidence of high water tables, contamination of streams, and a no disturb/no build zones

from Montana Department of Fish Wildlife and Parks that was ignored by the Planning Department without a clear and acceptable reasons given as to why it was ignored or that acceptable mitigation was provided.

- b. Are the application requirements comprehensive enough?
 - i. Are the application requirements excessive? **Comment:** *The pre-application process could be more effective. If we had greater definition of the six criteria. It would be easier to determine on the front end whether a project will go through*
 - ii. Are there items that are not currently required in an application that the Board believes should be? **Comment:** *Other county regulations should be examined to see if there are items that should be included in our application requirements such as additional environmental considerations, e.g. view shed impact, energy conservation measures, etc.*
 - iii. Do the regulations currently require a sufficient amount of detail and information to be included on the preliminary plat? **Comment:** *They do not appear excessive. Other county regulations should be examined to evaluate our preliminary plat application requirements.*

3. Design & Development Guidelines

- a. Thinking back to previous Board subdivision meetings, what are some common issues in the way many subdivisions are designed?
 - i. Specifically address lot and road layout, harmony with topographic and natural land features, wildland/urban interface, pedestrian accessibility and “multi-modal” transportation opportunities, and infrastructure requirements.
Comment: *Yes; there are things that we want in the regulations that we need to define. The developer should not have the creativity removed from the process, but we need to include the basics that we want in all developments, as well as their definitions. There will be numerous examples. Lack of consistency in the way applications are put together. We should have a specific format. There is a need for a standard form and checklist in a specific order of exactly what the requirements are for information on the application. Some examples are lot and road layout, connection with existing road, wildlife corridors, harmony with topography and topology. Inter relationship of the building design and the topology and amenities of the surrounding land, wild life interface, stream setbacks, water setbacks, cluster development, PUDs, conservation developments, “Green” development, urban wild land interface, living with wildlife, no fireplaces. Radon, stove regulations, solar, fire wise construction.*
- b. Are there development guidelines that are currently not in the subdivision regulations that should be?
Comment: *Yes, they need to be further defined, e.g. PUDs, “cluster”, and conservation development. We need to have some meaningful discussions with the public, BCC, Planning Department and consultants about mitigation opportunities. We need to develop proposed types of mitigation for different problem areas, such as impact on Ag. Have the legal department determine if cluster development can*

happen in the absence of a growth policy. Identify incentives that encourage developers to promote the type of developments that the public wants to see developed.

- c. Is there development guidelines that are currently in the subdivision regulations that the Board believes should not be?

Comment: *Not that we know of.*

- d. Are there any existing design provisions that could be enhanced?

Comment: *Yes some examples are: Fire Wise building, green building, and landscape appropriate. Perhaps include recommendations in an appendix for items that are recommended but not enforceable or into the Citizens Guide.*

- e. What are some design guidelines that the Board believes need no change?

Comment: *TBD*

- f. ***Note: At this time, it is unnecessary to provide detailed examples of what design improvements the Board would like to see. Please withhold this level of detail for a later task.***

4. Variance Review:

- a. Does the current variance review procedure work well?

Comment: *No – findings of facts need to be clarified and expanded*

- b. Are there certain development standards that should not qualify for a variance?

Comment: *Maybe. We can try to identify these areas during the detailed section by section review that we feel needs to be done in a subsequent phase of this project.*

- c. Can any improvements be made to this section?

Comment: *Yes to allow flexibility in only some instances. Variances that are requested after preliminary plat approval should be returned to the Planning Board for consideration. This should be for instances where there were unforeseen circumstances beyond the developer's control.*

- d. Should the variance criteria be amended?

Comment: *We probably need to discuss keeping them or simply relying on Montana statute, MCA 76-3-506.*

5. Other:

- a. What are the overall strengths and weaknesses of the current regulations?

Comment: *We believe the answer to this question was covered above.*

- b. What other issues with the subdivision regulations and process has the Board encountered that needs attention?

Comment: *Fire section, also see Ben Hillicoss's memo dated 2-19-2008 for a list of questions.*

- c. Are there any other sections in the regulations that need to be amended?

Comment: *Yes, please see Ben Hillicoss's memo dated 2-19-2008 for a list of questions.)*

- d. Why? **Comment:** *see answer to 5b above*

Master List of Subdivision Review Questions - Original Dated February 19, 2008

1. In Ravalli County, what is the goal of subdivision review? What are the objectives needed to accomplish that goal?
2. Pre-application Conference
 - a) At what point can Planning Board or BCC members review the application? (Carlotta Question #6)
3. Application Requirements
 - a) Are there items missing from the required application elements in Section 3-1-5 of the Subdivision Regulations?
 - b) Should the County require certain application elements for subdivisions that meet a certain lot number, acreage, and/or density threshold? Following is a list of ideas:
 - Sidewalks; trails; walking paths to bus stops; shelters at bus stops; bike path network to subdivisions and along major collector roads; road connectivity; alternative or emergency accesses; community parks/gardens/playgrounds/pastures/barns; community maintenance agreements for common areas and trails; encouraging community water and sewer systems; community power generation and distribution; community trash incinerators and heating plants; wind or solar generation; and high tech wood burning stoves and fireplace inserts.
 - c) Ben Hillicoss and Sonny LaSalle proposed a set of wildland urban interface standards for the Subdivision Regulations around 2001. Why haven't these regulations been adopted?
4. Element Review
5. Sufficiency Review
 - a) What additional information should planning staff be requesting under existing items in Section 3-1-5? Can staff request this information now or will it require a modification to the Subdivision Regulations?
 - b) Can the BCC request specific information from applicants related to one of the required application items in Section 3-1-5? If so, what is the best mechanism for that to occur? Following is a list of specific examples:
 - Could the BCC request specific water availability/quality information related to one of the required application items, such as the summary of probable impacts on the natural environment (Section 3-1-5(a)(xli))? How could the BCC figure out what kind of water information/studies are needed? Who at the County has the expertise to review the information? Could the County contract a hydrologist or other expert?
 - Could the BCC request a study on how the change in irrigation on a proposed subdivision might affect domestic wells and/or irrigation practices related to agriculture in the area, which may be information related to the summary of probable impacts on agricultural water users and natural environment?
 - Could the BCC request a traffic study for an intersection that includes a State highway, which may be information related to the traffic impact analysis (Section (3-1-5(xxxiv))) or summary of probable impacts on local services/public health and safety (Section 3-1-5(a)(xli))?
 - Could the BCC request information on emergency response times, which may be related to the summary of probable impacts on public health and safety? Or is it the responsibility of the County to provide this information?
 - Could the BCC request information on the impacts of a subdivision on the viewshed, which may be related to the summary of probable impacts on the natural environment?
6. Planning Staff Review/Reports
 - a) How does staff determine whether the effects of development are significant enough to require mitigation? This question also pertains to Planning Board and BCC review later in the process. (Carlotta Question #2)

- b) Can the County clearly define significant impacts of each of the six subdivision review criteria? For example, the County could define a significant impact on agriculture as any proposal that takes more than 5.00 acres of prime agricultural land out of production.
- c) Does State law prohibit the County from establishing additional review criteria (beyond the six) in the Subdivision Regulations?
- d) How does staff determine whether the effects have been sufficiently mitigated? This question also pertains to Planning Board and BCC review later in the process. (Carlotta Question #3)
- e) Does insufficient mitigation constitute grounds for recommending denial of a subdivision? This question also pertains to Planning Board and BCC review later in the process. (Carlotta Question #4)
- f) How is the Growth Policy currently included in staff's review? Should staff take a different approach?
- g) How should staff deal with bus turnouts?
- h) Why does staff include a condition recommending no wood stoves instead of requiring it? Discussion about recent litigation regarding Lewis and Clark County and building codes.
- i) Why doesn't staff use the Farmland of Local Importance classification when determining the impacts on agriculture? Discussion about farmland classification of soils and impacts to agriculture.
- j) Discussion about current process of parkland dedication and cash-in-lieu.

7. Scheduling of Planning Board Meetings/BCC Hearings

- a) Overview of current procedure
- b) Overview of upcoming subdivision meeting/hearing schedule
- c) Problems with current procedure - Planning staff is having difficulty scheduling hearings for subdivision review. BCC have not been blocking out available time, meetings have had to be rescheduled which costs time and money for re-notification, and meetings are starting late.

8. Planning Board Review/Meetings

- a) Review current procedure for Planning Board review
- b) How does the Planning Board develop findings of fact and the credible evidence to support them as they pertain to the six subdivision review criteria, particularly when the findings go beyond, or are different from, the conclusions in the staff report? This question also pertains to the BCC review later in the process. (Carlotta Question #1)
- c) BCC idea for expanding role of Planning Board. Discussion on the formation of a Planning Board subcommittee to address Phase II zoning and sustainability.
- d) If a Planning Board member misses a meeting and has a major concern, what is the proper way to communicate the concern to the BCC?
- e) Can a Planning Board member issue a minority report if their concern isn't reflected in the Planning Board's recommendation?

9. BCC Review/Hearing

- a) Can the BCC request more information from a land developer than has been submitted to the planning department? (Carlotta Question #5)
- b) How does the BCC determine that adequate opportunity for mitigation has been offered to the land developer during mitigation negotiations? (Carlotta Question #7)
- c) Can a county commissioner submit new information about a subdivision at the public hearing? (Carlotta Question #8)
- d) When new information is submitted during a subdivision hearing, how can the BCC determine if the new information is significant enough to remand the application to the planning department/board for further review? (Carlotta Question #9)
- e) Brainstorm process for BCC to clearly define additional findings and conditions for staff during public hearings.
- f) Open Lands Board Contribution – Finding for amount? Clarification for the use of the contribution?
- g) Discussion about school contributions in relation to capital facilities

- h) Recently there has been discussion at hearings about the negative impacts of domestic wells on agricultural water user facilities – what is the basis?
- i) Discussion about general fund contribution/fiscal impact analysis

10. Minutes/PPD Signatures

- a) BCC minutes – planners are spending major amounts of time to edit
- b) Approval of minutes are needed to issue the PPD – this is taking a long time
- c) Getting signatures from BCC on PPDs is also taking a long time

11. Miscellaneous

- a) If the County adopts impact fees, will developers be required to pay the full fee if they have already paid a voluntary contribution?